

THE CITY OF NORFOLK



To the Honorable Council
City of Norfolk, Virginia

January 25, 2022

From: Gregory A. Patrick
Director of Budget & Management

Subject: VDOT Smart Scale FY22 OB Amend
Granby Bike Lane

Reviewed:

Patrick Roberts, Deputy City
Manager

Ward/Superward:

Approved:

Dr. Larry H. Filer II, City Manager

Item Number: R-16

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk, Department of Transit

III. **Description:**

This agenda item is an ordinance requesting the Virginia Department of Transportation (VDOT) to establish and the City of Norfolk to administer one project through the FY 2021 SMART SCALE Program: the Granby Street Bike Lane Project from Willow Wood to Wards Corner. The ordinance also requests City Council to accept the federal funding allocation of \$822,000 for the projects' design and construction. Finally, the ordinance requests City Council approve the Virginia Department of Transportation's Project Administration Agreements for the two projects. This amendment replaces the original allocation of \$770,000 due to an increased award amount of \$822,000 from the VDOT.

IV. **Analysis:**

- Through VDOT's SMART SCALE Program, VDOT allocated \$822,000 to the City of Norfolk to administer and complete bike lanes on Granby Street from Willow Wood to Wards Corner.
- The project will repurpose one outside travel lane in each direction with dedicated bicycle lanes, including physical barriers between bicycle and vehicle travel lanes.
- Construction mainly consisting of pavement markings, roadway signage, and barrier installation within existing roadway limits.

- Local government administration of federal aid transportation projects can have many benefits and has become an integral part of Virginia's Transportation Construction Program.

V. Financial Impact:

- Federal funding through VDOT of \$822,000 will come from SMART SCALE funds.
- These projects are 100% reimbursable to the City of Norfolk; no local match is required.

Cost Breakdown:

Project	UPC	VDOT Funding
Granby Bike Lanes from Willow Wood to Wards Corner	111021	\$ 822,000
Total Project Costs		\$822,000

VI. Environmental:

N/A

VII. Community Outreach/Notification:

Coordination with Civic Leagues, Task Forces and adjacent businesses will be made prior to installation of all signal improvements.

VIII. Board/Commission Action:

N/A

IX. Coordination/Outreach:

This letter has been coordinated with the City Attorney's office.

Supporting Material from the Department of Transit:

- Ordinance
- Exhibit A: VDOT's Project Administration Agreements with Appendices

Supporting Material:

- VDOT Granby Bike Lane Attachment A.docx (PDF)
- Grant History docket memo (DOC)

Form and Correctness Approved:

BAP

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose

By: 


Office of the City Attorney

Contents Approved:



By:

Budget and Strategic Planning



Christine Garczynski, Director of Finance

NORFOLK, VIRGINIA

Ordinance No.

AN ORDINANCE AMENDING THE FY2022 ANNUAL APPROPRIATIONS ORDINANCE (NO. 48,379) SO AS TO ACCEPT, APPROPRIATE AND AUTHORIZE THE EXPENDITURE OF GRANT FUNDS UP TO THE SUM OF \$822,000.00 FROM THE VIRGINIA DEPARTMENT OF TRANSPORTATION SMART SCALE PROGRAM FOR THE GRANBY STREET BIKE LANE PROGRAM; AND AUTHORIZING THE AGREEMENT WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE ADMINISTRATION OF THE PROJECT BY THE CITY.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the FY2022 annual appropriations ordinance (No. 48,379) is amended and reordained so as to amend Section 14 subparagraph (ddd) in its entirety to read as follows:

(ddd) That, if and when made available from the Virginia Department of Transportation Smart Scale Program, the sum of up to eight hundred twenty two thousand dollars (\$822,000.00) is hereby appropriated and authorized for expenditure for the Granby Street Bike Lane program.

Section 2:- That the proper officers of the City are authorized to do all things necessary to execute a VDOT project administration agreement in substantial conformity with the agreement hereto attached as Exhibit A.

Section 3:- That this ordinance shall be in effect from and after the date of its adoption.

ATTACHMENTS:

Exhibit A (7 pages)

CERTIFICATION OF FUNDING

Account No.: __2275-45-9709-9709__

Amount: __\$822,000__

List additional account nos. and amounts here

STANDARD PROJECT ADMINISTRATION AGREEMENT
Federal-aid Projects

Project Number	UPC	Local Government
0460-122-392	111021	City of Norfolk

THIS AGREEMENT, made and executed in triplicate this ____ day of _____, 20__, by and between the City of Norfolk, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the LOCALITY is committed to the development and delivery of each Project described in Appendix A in an expeditious manner; and;

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The LOCALITY shall:
 - a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by the DEPARTMENT
 - b. Meet all funding obligation and expenditure timeline requirements in accordance with all applicable federal and state laws and regulations, and Commonwealth Transportation Board and DEPARTMENT policies and as identified in Appendix A to this Agreement. Noncompliance with this requirement can result in deallocation of the funding, rescinding of state funding match, termination of this Agreement, or DEPARTMENT denial of future requests to administer projects by the LOCALITY.

- c. Receive prior written authorization from the DEPARTMENT to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.
- d. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.
- e. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project.
- f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and an up-to-date project summary and schedule tracking payment requests and adjustments. A request for reimbursement shall be made within 90 days after any eligible project expenses are incurred by the LOCALITY. For federally funded projects and pursuant to 2 CFR 200.338, Remedies for Noncompliance, violations of the provision may result in the imposition of sanctions including but not limited to possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance.
- g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, federally funded Project expenditures incurred are not reimbursed by the Federal Highway Administration (FHWA), or reimbursements are required to be returned to the FHWA, or in the event the reimbursement provisions of Section 33.2-214 or Section 33.2-331 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.
- h. On Projects that the LOCALITY is providing the required match to state or federal funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
- i. Administer the Project in accordance with all applicable federal, state, or local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of federal or state-aid reimbursements
- j. Provide certification by a LOCALITY official that all LOCALITY administered Project activities have been performed in accordance with all federal, state, and local laws and regulations. If the LOCALITY expends over

\$750,000 annually in federal funding, such certification shall include a copy of the LOCALITY's single program audit in accordance with 2 CFR 200.501, Audit Requirements.

- k. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.
 - l. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.
 - m. Ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964, regulations of the United States Department of Transportation (USDOT), Presidential Executive Orders and the Code of Virginia relative to nondiscrimination; and as a sub-recipient of federal funds, adopt and operate under the DEPARTMENT's FHWA-approved Disadvantaged Business Enterprise (DBE) Program Plan in accordance with 49 CFR Part 26.
2. The DEPARTMENT shall:
- a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal and state laws and regulations or as otherwise agreed to, in writing, between the parties and provide necessary coordination with the FHWA as determined to be necessary by the DEPARTMENT.
 - b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 1.f., reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.
 - c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
 - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with federal and state laws and regulations.
 - e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.

3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.
5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.
6. Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.
8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, received a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

9. This Agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.f, 1.g., and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the DEPARTMENT shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.
10. Prior to any action pursuant to paragraphs 1.b or 1.g of this Agreement, the DEPARTMENT shall provide notice to the LOCALITY with a specific description of the breach of agreement provisions. Upon receipt of a notice of breach, the LOCALITY will be provided the opportunity to cure such breach or to provide a plan to cure to the satisfaction to the DEPARTMENT. If, within sixty (60) days after receipt of the written notice of breach, the LOCALITY has neither cured the breach, nor is diligently pursuing a cure of the breach to the satisfaction of the DEPARTMENT, then upon receipt by the LOCALITY of a written notice from the DEPARTMENT stating that the breach has neither been cured, nor is the LOCALITY diligently pursuing a cure, the DEPARTMENT may exercise any remedies it may have under this Agreement.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

UPC 111021
 Project # 0460-122-392
 Locality City of Norfolk

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

CITY OF NORFOLK, VIRGINIA:

 ATTEST:

 City Clerk Date
 City of Norfolk

 Chief Deputy City Manager Date
 City of Norfolk

CONTENTS APPROVED:

By: _____
 Director of Public Works
 City of Norfolk

 Date

APPROVED AS TO FORM AND CORRECTNESS:

By: _____
 Deputy City Attorney
 City of Norfolk

 Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this agreement.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

 Chief of Policy
 Commonwealth of Virginia
 Department of Transportation

 Date

 Signature of Witness
Attachments

 Date

Appendix A (111021)

Appendix A

Date: 3/18/2020

Project Number: 0460-122-392 UPC: 111021 CFDA # 20.205 Locality: City of Norfolk

Project Location ZIP+4: 23511-2730	Locality DUNS # 074740069	Locality Address (incl ZIP+4): 810 Union Street Norfolk, VA, 23510-2717
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Project Narrative

Work Description: #SMART18 - Granby Street Bike Lanes - New bike lanes on a 2-mile stretch of Granby Street, providing access to businesses and transit.

From: Willow Wood Drive

To: Admiral Taussing Boulevard

Locality Project Manager Contact info: Deborah A. Mangiaracina (757) 664-7459 deborah.mangiaracina@norfolk.govDepartment Project Coordinator Contact Info: Derrick Williams (757) 956-3097 derrick.williams@vdot.virginia.gov

Project Estimates

	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$83,000	\$0	\$689,100	\$772,100
Estimated VDOT Project Expenses	\$25,000	\$0	\$24,900	\$49,900
Estimated Total Project Costs	\$108,000	\$0	\$714,000	\$822,000

Project Cost and Reimbursement

Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement Locality (Max. Reimbursement - E VDOT Expenses)
Preliminary Engineering	\$108,000	Smart Scale (HB2) DGP	0%	\$0	\$108,000	
				\$0	\$0	
Total PE	\$108,000			\$0	\$108,000	\$83,000
Right of Way & Utilities						
Total RW						\$0
Construction	\$714,000	Smart Scale (HB2) DGP	0%	\$0	\$714,000	
				\$0	\$0	
Total CN	\$714,000			\$0	\$714,000	\$689,100
Total Estimated Cost	\$822,000			\$0	\$822,000	\$772,100

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)

\$822,

Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)

\$772,

Project Financing

						Aggregate Allocation
Smart Scale (HB2) DGP						
\$822,000						\$822,000

Program and Project Specific Funding Requirements

- This Project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Urban Manual.
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality shall complete project scoping on or before 8/18/2021.
- This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$822,000
- Reimbursement for eligible expenditures shall not exceed funds allocated each year by the Commonwealth Transportation Board in the Six Year Improvement Program.
- The LOCALITY will continue to operate and maintain the facility as constructed. Should the design features of the Project be altered by the LOCALITY subsequent to Project completion without approval of the DEPARTMENT, the LOCALITY inherently agrees, by execution of this agreement, to make restitution, either physically or monetarily, as required by the DEPARTMENT.
- Project estimate, schedule and commitment to funding are subject to the requirements established in the Commonwealth Transportation Board (CTB) Policy and Guide for Implementation of SMART SCALE Project Prioritization Process, Code of Virginia, and VDOT's Instructional and Informational Memorandums.
- This Project shall be initiated and at least a portion of the Project's programmed funds expended within one year of the budgeted year of allocation or funding may be subject to reprogramming to other Projects selected through the prioritization process. In the event the Project is not advanced to the next phase of construction when requested by the CTB, the LOCALITY or Metropolitan Planning Organization may be required, pursuant to § 33.2-214 of the Code of Virginia, to reimburse the DEPARTMENT for all state and federal funds expended on the Project.
- This Project has been selected through the Smart Scale (HB2) application and selection process and will remain in the SYIP as a funding priority unless certain conditions set forth in the CTB Policy and Guidelines for Implementation of a Project Prioritization Process arise. Pursuant to the CTB Policy and Guidelines for Implementation of a Project Prioritization Process and the SMA SCALE Reevaluation Guide, this Project will be re-scored and/or the funding decision re-evaluated if any of the following conditions apply: a change in the scope, an estimate increase, or a reduction in the locally/regionally leveraged funds. Applications may not be submitted in a subsequent SMART SCALE prioritization cycle to account for a cost increase on a previously selected
- Funds for this Project are not available until July 1, 2020.

This attachment is certified and made an official attachment to this document by the parties to this agreement.

Authorized Locality Official

Date

Authorized VDOT Official

Date

Typed or printed name of person signing

Revised: February 1, 2019

Typed or printed name of person signing